Framework for analysis of mitigation in courts

Bilyana Martinovsky
Institute for Creative Technologies
University of Southern California
13274 Fiji Way, Marina del Rey, CA 90403
martinovski@ict.usc.edu

Abstract

This paper presents an activity-based framework for empirical discourse analysis of mitigation in public environments such as Swedish and Bulgarian courtroom examinations. Mitigation is defined as a pragmatic, cognitive and linguistic behavior the main purpose of which is reduction of vulnerability. The suggested framework consists of *mitigation processes*, which involve *mitigating argumentation lines*, *defense moves*, and *communicative acts*. The functions of mitigation are described in terms of the participants' actions and goals separately from politeness strategies. The conclusions and observations address two things: issues related to the pragmatic theory of communication especially mitigation and issues related to the trial as a social activity. For instance, non-turn-taking confirmations by examiners are often followed by *volunteered utterances*, which in some cases may be examples of 'rehearsed' testimonies. At the same time the witnesses' tendency to *volunteer* information even on the behalf of their own *credibility* indicates that they also favor pro-party testimonies. Despite the objective judicial role of the prosecutor or judge and/or despite the examiners accommodating style the verbal behavior of the witnesses exhibits constant anticipation of danger.

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1. Introduction

The purpose of this paper is to present a framework for a pragmatic analysis of mitigation in courts. The study focuses on discursive acts and aspects of discursive acts the purpose of which is to defend a given line of argument or to confront actual or projected accusations or allegations as well as the strategies or devises used by the professionals in defending their clients. It is assumed that vulnerability, which may be existential and/or associated with certain activity or situation is what causes the phenomenon of mitigation. That is why mitigation is described here as a complex cognitive, emotional, pragmatic, and discursive process, which main purpose is reduction of vulnerability (i.e. Self, Other's, past, future and/or past vulnerability) and which is an aspect of the defensive behavior in courts. The data on which the empirical analysis is based consist of audio-recordings of inquisitorial examinations in six Swedish (Andenaes, 1968; Inger, 1986) and five Bulgarian (Terziev, 1987) court trials. Altogether the bilingual corpus consists of 46 000 words.

1.1. Definition of mitigation

The etymology of the term 'mitigation' refers back to Latin where 'mitigare' means "to make mild or gentle", from 'mitis' "gentle, soft" + root of 'agere' "do, make, act". The nominalization and concept 'mitigation' is linked mainly to environmental sciences and contexts (e.g. risk mitigation, earthquake mitigation, bicycle hazard mitigation,

mitigation of erosion damage, etc.). Already in this use it is associated with coping (Lazarus, 1999) with (inevitable) negative events or experiences. It is also linked to studies of pragmatics, linguistics, medical care (e.g. Delbene, 2004; Martinovski and Marsella, 2005) and law (Danet and Kermish, 1978; Danet, 1980, 85; Martinovski 2000; Kurzon, 2001; Perez de Ayala, 2001). In fact, we have by now a blooming field, which identifies many devices (e.g. hedges, bushes, shields, approximators, etc.) expressing mitigation and which relates it to politeness, indirectness, fuzziness, vagueness, reduced commitment, and defenses.

In legal settings, mitigation is used to describe self-defense or defense without *denial* of direct responsibility for wrongdoing. Dictionaries of law define it as 'reduction, abetment or diminution of a penalty or punishment imposed by law' or as 'to partially *excuse* something or make it less serious'. The Thesaurus category tree includes terms such as 'extenuation', 'human action', 'communication', '*justification*', '*excuse*', 'alibi', 'defense'. Danet (1978, 1980) associates mitigation in court proceedings with the use of hedges[1], *justifications*, *excuses*, qualifications of answers, choices of verbs.

In the pragmatic discursive context, 'to mitigate' is described as "rhetorical devices, which soften the impact of some unpleasant aspect of an utterance on the speaker or the hearer" (Danet, 1980: 525). Similarly, Fraser defines that mitigation is used "to ease the anticipated unwelcome effect" (Fraser, 1980: 344). He makes three main distinctions: (i) "mitigation only occurs if the speaker is polite" (ibid.) but not the opposite; (ii) mitigation is not a speech act but modifies the force of a speech act; (iii) mitigation is not hedging

[1] The concept of 'hedges' or 'metalinguistic operators' such as 'more or less', 'like', 'sort of' etc. in turn originated in studies on the fuzzy-set theory (Zadeh, 1965).

but “hedging words can contribute to creating a mitigating effect” (ibid.). Fraser finds it “difficult to construct a case where the speaker is viewed as impolite but having mitigated the force of his utterance” (ibid.). He mentions number of mitigation structures, such as directives performed by indirect means, distancing devises, such as disclaimers (see also Overstreet and Yule, 2001), immediacy in the information structure, parenthetical verbs (ex. guess, think, feel), tag questions, and hedges. All these “indicate intentions to involve mitigation” (p. 345) but are not to be identified with mitigation itself. Fraser restricts that there are two basic types of mitigation: self-serving (driven of fear to cause discomfort to self) and altruistic (driven of fear to cause discomfort to others). Thus, according to Fraser e.g. congratulations or praise can not be mitigated because they do not have unwelcome effect, which is problematic to apply especially in intercultural communication perspective.

Holmes (1984) explains the interest in mitigation with the observation that “researchers are most familiar with ‘negative-politeness culture’” (1984: 345) where politeness and mitigation devices such as hedges are used for avoidance of disagreement (Brown and Levinson, 1978). In the same spirit, Giora et. al. (2005) study mitigation as a means for downgrading irony. Holmes builds on Fraser and described mitigation as a kind of attenuations, which is the opposite of boosting of meaning. Attenuation and boosting are described as strategies for modification of illocutionary force. Holmes claims that mitigation can be understood only in contrast to boosting. Mitigation is thus used to reduce anticipated negative effect of a speech act. Finally, Holmes distinguishes between modification of attitude to a proposition (e.g. modal expressions) and/or modification of attitude to a hearer, which apply both to mitigation and boosting.

Flowerdew (1991) defines the function of mitigation as indication of interpersonal exchange beyond the truth condition. He adds terms such as mitigator and mitigated, extends the idea of modification to the speech act of defining in classroom settings, and describes mitigation as a pragmatic strategy for modification of meaning similar to politeness and indirectness.

Caffi (1999) adopts a more relation-oriented stance. Similar to Holmes, she defines mitigation as weakening or downgrading of interactional parameters, which affects allocation and shuffling of rights and obligations. In this sense, mitigation affects the interactional efficiency, on one hand and the monitoring of relational, emotive distance between interlocutors, on the other. Caffi's classification of mitigation devices or strategies is based on three different scopes of mitigation: proposition (bushes), illocution (hedges), and utterance source (shields). Mitigation is defined in terms of "responsibility management in discourse, involving cognitive and emotive aspects" (Caffi, 1999: 884). Cautiousness is a feature of professional linguistic behavior, expressed in terms of mitigation. For Caffi "cautiousness is a result of uses of bushes, hedges, and shields" (Caffi, 1999: 905), expressing avoidance to define relationship, leading to emotive distancing and relational distancing.

The growing literature on mitigation is characterized by number of tendencies: more and other than English languages are subject of study; growing preference for authentic data; attention to multi-party activities. The present work attempts to attempts to formulate a systematized framework, in which mitigation is a product of the integration of action, argumentation, and linguistics.

1.2. General and activity-specific, pragmatic and juridical

Activity-based communication analysis is part of pragmatics. In that sense the specificity of the activity adds to the pragmatic conditions of meaning and interaction. In our case, everyday discourse can be distinguished from legal discourse but both are part of pragmatic analysis. At the same time, mitigation and defense are two different phenomena, which are not interchangeable but may overlap. Defense in court or outside of court is a reaction to accusation or attack. Mitigation may be involved in defense but one may mitigate without defending self or other. For instance, one may reduce someone's vulnerability by mitigating a rejection of mitigation (i.e. negative politeness) but this is not defense of anything or anybody.

Perez de Ayala (2001) mentions mitigation in relation to negative face (and politeness) and distinquishes between private and public face: its assumed function is to minimize threat to face and avoid conflict. However, she concludes that in the British parliament's Question Time sessions the politicians use politeness to pick conflict, to attack and threaten each other rather than (as defined in Brown and Levinson, 1987) to avoid and diminish threat to other's face. Thus the local specific activity may not only determine the choice of interactive strategies but even modify the main function of the strategies of interaction. The Parliament Question Time is defined as a political fight. A trial is also a form of verbal fight governed by some restrictions for behavior such as turn-giving order but here some of the participants act with their public face and other, such as the witnesses act with their private face. In addition, often those who have not

developed a public face in the activity are indeed those who are threatened, not the opposite. Thus we may expect in court something different from 'face-work as aggression' found in Parliament; since the trial activity as such involves increased level and sense of vulnerability of private face in a public arena we may expect that mitigation will be used by both types of participants in different occasions. Private negative face work as "the basic claims or territories, … freedom of action and freedom of imposition" (Brown and Levinson, 1987: 61) coexists with the public negative face work, which function has been defined as "the right not to suffer impositions" in the public sphere (Perez de Ayala, 2001). That is to say, mitigation is expressed not only in the answers of the witnesses but also in the questions or the utterances of the examiners (Jacquemet, 1994). For the defendant and plaintiff mitigation has more self-oriented character (Adelswärd et. al., 1988), whereas for the examiners we may expect that most fitting is the common definition of mitigation as devices aiming "to ease anticipation of unwelcome effect". Other witnesses such as eye-witnesses may use mitigation in reference to their own *credibility* more often than in relation to their moral positions or actions. The examiners may and do formulate their utterances in a directed manner, which normally (i.e. one may have also hostile own witnesses) aims to soften the vulnerability of their clients. Thus caution is practiced by both examined and examiner. According to the role of the speaker in the activity, mitigation may be primarily other- or self-oriented[2]. Thus discourse mitigation is altered and colored by the specific activity as

[2] In fact, every utterance can be described as a two-directional effort to preserve or modify Self and Other theory-of-mind models (see Martinovski and Marsella, 2003).

such. Non-legal discourse mitigation is not necessarily related to defense behavior, accusations, *credibility*, and guilt issues, but directed to social face-work whereas mitigation in juridical discourse has also relevance to the defense or to the case as such. The framework presented here aims to provide linguistic-pragmatic analysis of mitigation in the context of a particular activity rather than description of defense in court per se. Thus a broad description of mitigation as reduction of vulnerability with respect to the speaker and/or to the hearer or both is more suitable for the present study[3].

2. Components of the framework

Figure 1 below shows the components of the mitigation theory on which the concrete analyses in the next sections are built and which have contributed to the formulation of the theoretical framework. Only the acts correspond to concrete linguistic formations such as communicative acts. The rest of the categories are realized on larger contextual levels such as discourse, sequence, and utterance. The two main strategic *processes*, which engage mitigation in this activity are *minimization* and *aggravation*. Minimization or downplay is the attempt by the speaker to minimize vulnerability, which in courts could be guilt, accusation, allegation etc. Aggravation is the result of discursive argumentation where the speaker aggravates the guilt or the seriousness of an act (usually other's). Such aggravations could be presented with mitigation. Aggravation of others'

[3] Mitigation as such expresses interesting ethical aspects of the interaction between Self and Other (e.g. Dolitsky, 1984), which are related to the growing Theory of Mind but which will not be discussed in this study.

guilt may result in minimization of the weight of e.g. the speakers' guilt; minimization of own guilt may aggravate other's guilt[4].

Argumentation lines are the types of argument utilized by the speaker in building his/her defense on a particular matter. The *mitigation processes* may make use of different or identical *argumentation lines*, although, for instance, the *argumentation line* '*no agency*' is more directly related to minimization of guilt than to aggravation of somebody's guilt (see 3.1.1. and 3.1.3. for examples). I have listed eight *argumentation lines* because they are most typical and frequent (cf. Danet, 1980; Komter, 1994; Martinovski, 2000) although the list may be extended.

The *argumentation lines* in the studied activity are realized by three basic *defense moves*, namely, *concession, prolepsis or prevention (or anticipation),* and *counter-attack*. For instance, the *argumentation line* '*reference to authority*' may be a move preventing further doubts but it is not a counter–attack. It could be a *counter-attack* and *prolepsis* as well, according to context. The *moves* are related to previous strategic events in the discourse, they are by nature relational and to discover them one may need to have access to very large amounts of data or to check argumentation in different part of the trial. Thus *defense moves* are cognitive procedures or strategies and are not identical to the mitigating communicative acts. The communicative acts are local in comparison to the moves, they need two to five utterances for identification whereas *defense moves* demand

[4] One may also boost ones own (or own clients) good qualities as a defense strategy in court but such boosting would most probably not use mitigation. In any case, the data used here do not exemplify such boosting. We have cases of 'boosted' mitigation forms such as detailed narratives (see example ST1: 35, section 3.2.) but not of positive quality boosting.

much more context and are difficult to detect. In addition, for instance, the acts of agreement or *admission* are not always *concessions* and not always prolepses. Moves can be reactions to implicit or explicit accusation. These moves may co-occur. *Concessions* may be drawbacks of stronger statements. By *prolepsis* I mean anticipation of accusations or some kind of challenge or threat or danger. *Counter-attacks* may be counter-accusations, acts such as rejoinders and *rebuts*, which very well also may be *proleptic* or anticipatory.

The *defense moves* and, through them, the *argumentation lines* and the *mitigation processes*, are realized by *defensive communicative acts*. The most common mitigating communicative acts are *excuses*, *justifications*, *rebuts*, *admissions*, *denials*, and objection (Martinovski, 2000) but also other communicative act may get mitigating power in dependence of the context. The defense acts and moves contribute to the formulation of the *argumentation line*s and the processes of minimization or aggravation of guilt, and together they construct the working mitigation theory, which is going to be described with authentic examples in this chapter and is illustrated in Figure 1:

Figure 1. Framework for analysis of mitigation in courts

The *argumentation line common knowledge* names arguments in which the speaker refers to or indicates (e.g. by modal particles such as the Swedish modal particles *ju*, *väl*) that what he is speaking about is a principle fact or matter-of-fact or a belief shared by the members of the socio-cultural community to which he belongs and is thus understandable to 'everyone', including the participants in the discursive activity.

A variation on the theme of this defensive and mitigating *argumentation line* are *references to authority* such as the medicine (see example ST1: 35 below), police (see example ST1: 37 below), etc.

By *shared responsibility* I mean arguments in which the speaker refers to other agents in a given event and the notion that he is not the only person responsible for the actions in question.

When the witness says that he does not remember something he may be using a *lack-of-memory argumentation line*. It may be that he truly simply does not remember something and that this is not caused by his desire to hide certain facts, which is then up to the examiner to find out.

Closely related is the expression of *uncertainty* on matters important for the defense or *certainty* on matters that prove the case of the speaker and aggravate the position of the opponent. The witness may engage in defense building of his *credibility* as a witness; he may for example refer to his capacity of being a shoemaker when talking about the quality of a shoe. This capacity of his gives him competence, which increases his *credibility* as a witness on a case involving e.g. shoe style.

They also and most often simply construct their sentences by using impersonal pronouns or expressions and thus 'hide' the *agency* aspect of the narrative (e.g. Atkinson and Drew, 1979); this happens especially in cases in which they are in fact accused of the act in question. That is, it may be obvious that they have done what they are accused to have done and still avoid referring to themselves as agents.

The most common *argumentation line* in the data is *lack of intention*, which means that the speaker is admitting having done the act but denies having had the intention to

commit a crime or cause pain or the like.

3. Analysis of mitigation

The mitigating processes are interrelated but in order to exemplify them I will analyze realizations of *defense moves* and in relation to them the realizations of *mitigation processes*, lines, and acts. All *argumentation line*s and moves may be employed both by the witnesses and the legal representatives; I will focus mainly on the non-professional actors in the activity and on the interplay between the participants.

In this framework, I distinguish between three types of *defense moves*: *concession* (realized by e.g. agreement, *admission*), *prolepsis* (anticipation or prevention of danger), and *counter-attack* (realized by e.g. *rebuts, denials*). The moves are sequential in the way they are performed and formulated. They may be cooperative or combative and involve some degree of conscious strategic intention.

3.1. Concession

Characteristically *concessions* occur during examinations of own witnesses and are typically realized by initial *admissions*. In ST1: 102 below an *admission* is offered during the sub-activity of establishing the personality of the defendant and between the defense counsel and the defendant. In this context, the examiner often suggests a *argumentation line* (to his client and to the court) in his own questions (see the bold part of line 1 below; ST stands for Swedish trial, BT – for Bulgarian trial, J - for judge, Pl – for plaintiff, DC –

defense counsel, / stands for pause, <> defines the scope of the described feature, (…) stands for inaudiable speech, capital letters for emphatics, + for cut-offs, : stands for prolonged speech, [ ] – for overlapped speech, @ initiates comments, the numbers index stretches of speech with a comment or overlap).

ST1: 102

1. DC: < va e* å hur har de gått helt allmänt för dej me / me

SPRITEN > / de har vart perioder till och från

DC: < what is and in general how has it been going with you with / with THE ALCOHOL > / **there have been periods from time to time**'

@ <mood : asking>

2. -> D: de har vart till och från

D: **'it has been from time to time'**

3. DC: jaha

DC: 'I see'

The organization of the acts is:

WH-question + declarative suggestion ->

Partial repetition without initial confirmation feedback

On line 2 the defendant admits to the asocial behavior of alcohol drinking by embracing the offered weak form of *admission*. The witness feels less endangered by the examiner, which is evident from the fact that he may offer *admissions* in the form of full

repetitions without any further qualifications of these *admissions*. However even in these cases the repetitions consist of this part of the question, which offers a minimal version of guilt, i.e. a minimal *concession*, as in the next example.

ST1: 101

1. DC: JA de e ju inte skrivet nånting / om din situation sen den elfte i andre < > de e skyddskonsulentens yttrande här / e: / har du e: / e du < finns de nåra ANDRA / BROTT som du e misstänkt för under den här tiden som > /

DC: 'YES there isn't anything written / about your situation after the eleventh february <> this is here the statement of the probation officer /eh:/ **have you eh: / eh you < are there OTHER / CRIMES** that you eh are suspected of during this time > /'

@ <not transcribed : year>

@ <mood : asking>

2. -> D: ja de e NÅT brott e de nog / men de vet / de vet ja inte va de blir av

D: '**yes there is SOME crime there is probably** / but i don't / i don't know what will happen with this'

Even the confirmation on line 2 above is offered in the non-examination part of the trial and between the defense counsel and the defendant. It also includes mitigating components such as the reformulation of 'other' to 'some' where the later makes the

reference more uncertain almost negligible; change of the plural ‘crimes’ to singular ‘crime’; also the Swedish modal particle *nog* (translated above as “probably”) is added which indicates mild *uncertainty*. The confirmation is followed by a further expression of *uncertainty* on whether the accusations of other crimes are justifiable. The defense counsel reformulates his own question by avoiding agency ascribing references and choosing a final form of the question (in bold), which refers to general state of affairs and has impersonal form (i.e. ‘are there’). Thus *concessions* are joint project moves, i.e. both speakers’ utterances mitigate. Notice, that here as in other examples in this paper mitigation functions without being a form of politeness as defined by Fraser (1980 : 344).

3.2. Prolepsis

Proleptic moves are very frequent in court discourse and often take the form of evasive answers. On line 2 below the defendant is more concerned with the *certainty* of the accusations in the prosecutor’s question than with the actual opportunity to give a clear denying guilt answer. He uses an argument contesting the accusations and thus functions as a *prolepsis*.

ST1: 5

1. P: de här me att du skulle ha knuffat omkull < leander > på gatan

/ eventuellt sparkat honom å / haft den här kniven framme < e de fel de >

P: ‘this that you might have pushed down <leander> on the street / probably kicked him and / had taken out this knife < **is this wrong** >’

@ <name>

@ <mood : asking>

2. -> D: för de första så bär ja inte kniv när de gäller bråk

D: **‘first of all i don’t carry a knife when there is trouble’**

3. P: nä men ja fråga om de va rätt eller [(...)]

P: ‘no **but i ask whether it was right or [(…)]’**

The initial question requests *admission* or *denial* through an explicit elicitation of affirmation and a yes-no question in the final position but the utterance following it is both an *admission* and a *denial*. The defendant testifies that he does not carry a weapon and this is a *denial* but he specifies that this applies to cases of trouble. The word *bråk* in Swedish means “trouble” not excluding armed fight, which is part of the charges against the defendant. Thus this is a mitigated *admission* of participation in a quarrel not a perpetration of a felony. The prosecutor’s question treats the charges hypothetically i.e. as negotiable, because he uses the verb *skulle ha* (“would have”) not e.g. ‘that you have pushed down…’ as well as weaker modal qualifiers such as *eventuellt* (“probably”). However he uses a definite deictic reference to the knife as something already established. The defendant’s argument in line 2 is initiated as the beginning of a list of objections or disclaimers and presented in a very certain manner as a principle fact but it

is still possible to believe that despite the principle of not carrying a knife he might have had a knife on that particular occasion, i.e. the argument continues the negotiation line. It denies only implicitly possession of a weapon and objects to the formulation of the preceding implicit accusation. (Only after a more insistent repetition of the yes-no question does the defendant give a clear answer to that question.)

Typically acts of initial *admissions* are combined with *proleptic moves* in the form of *justifications*.

ST1: 35

1. P: < hur va de själv så här e / dagarna före <2 valborg >2 hade du / druckit sprit > //

P: '<1 how was it with you eh / the days before <2 valborg >2 have you been drinking alkohol >1 //'

@ <1 mood : asking >1

@ <2 name >2

2.-> D: ja: de hade ja gjort men inte nån LÄNGRE tid i varje fall fö ja hade gått på antabus hela den här våren då / ända fram till artonde e artonde april hade ja gått på antabus / å de va ju inte så många dagar efteråt å å de tar ju faktist e / en å en halv vecka innan antabusen går ur KROPPEN om man / har gått så länge på antabus ja har inte kunnat / NÅN DA ett par dagar innan hade ja kunnat börja dricka

D: ‘yes: i had been drinking **but not for a long time in any case because i had been taken antabus during this whole spring then / until the eighteenth eh the eighteenth of april i had been taken antabus / and there were not so many days afterwards and and it actually takes eh / one and a half weeks before the antabus goes out from THE BODY if one / has been taken antabus for so long i have not been able / SOME DAY a couple of days before i would have been able to start drinking**’

3. P: < men …

P: ‘<but…’

The question on line 1 is a simple yes-no question. The answer, being an *admission*, starts with a simple confirmation feedback word and then gives a full answer and continues with a very long account, which begins with an objection item *men* (‘but’). The *argumentation line* consists of providing objective reasons, also realized by repeated use of epistemic modal particles signifying *common knowledge* (j*u*). The medical objectivity is a kind of authority:

Y/N question ->

Positive feedback word + full anaphoric answer + long *justification* (*defense move: prolepsis*; *argumentation lines*: *certainty, common knowledge, reference to authority*)

Since this sequence occurs at the beginning of the examination and since it is preceded only by one simple question on the topic, we may infer that the witness is not

only prepared for the question, but that his extended contribution functions as a preface for any further accusation built on his level of consciousness. Curiously, these accounts do not answer the question of the prosecutor, so he has to restate it and thus insist on the concrete *admission*.

ST1: 36

1. P: < men den här aktuella kvällen eftermidda kvällen då hade du druckit sprit > /

P: '<but that particular evening afternoon evening then have you been drink alcohol> /'

@ <mood : asking>

2. -> D: < (ja) öl ja går mest på öl >

D: < (yes) beer i mostly run on beer >

@ <quiet>

The feature sequence is:

Y/N question ->

Positive feedback word + *justification* = topicalization + correction + quiet voice (the whole utterance)

Witnesses disprefer other-corrections (Drew, 1990) but they also disprefer full admissions. As a result we get an *admission* that carries all the features of a mitigated act and whose purpose is to minimize the anticipated accusation i.e. it is a *prolepsis* and a *concession*. It is uttered very quietly, the direct *admission* consisting of simple positive

feedback word followed by a qualification or correction concerning the type of alcohol, which appears to be a less strong kind of spirit. Similar to ST1: 5 above, the second part of the answer is a principle one; it does not necessarily mean that the defendant has been drinking beer on that particular occasion thus it is still an evasive answer. In fact the anticipated danger of this aspect of the situation is so important for the defendant that he provokes a kind of verbal duel with the prosecutor in which the examiner is forced to underline the lack of concrete accusation. Since the answer on line 2 above was evasive the examiner refers (line 1 below) to an objective source of information, namely the police report, by emphasizing the word 'spirit' and thus addressing the non-conclusiveness of the previous principle statement of the examined. He confronts the defendant with his own previous testimony, forcing him to produce a clear *admission*. There is no direct question, only an indirect reported statement.

ST1: 37

1.	P:	för du har själv sagt de att du hade / den aktuella kvällen så
		hade du druckit en del SPRIT å va påverkad av förtäringen
	P:	'**because you have said this that on the particular night you had** / drunk a certain amount of ALCOHOL and were influenced by the drinking'
2. ->	D:	men de va ju inget så att poliserna: kvarhöll mej för fylleri
		[39 eller nåt sånt där]39

D: ‘**but it wasn’t anything so that the police: took me for**

drunkenness [39 or something like this]39’

3. -> P: [39 NÄE då]39 de ha de har ja inte påstått heller

P: ‘[39 NO then]39 this i have this i haven’t claimed either’

4. -> D: nä ja vill bara < på+ > < påpe+ > påpeka de att ja var ju inte

så full så att ja / skulle gått / de kan man ju också bli < så >

D: ‘no **I just want to <po+> <poi+> point out this that i wasn’t so drunk**

so that i / would have gone / one can become you know <so>’

@ <cutoff : påpeka>

@ ‘<cutoff : point out >’

@ <cutoff : påpeka>

@ ‘<cutoff : point out >’

@ <quiet>

5. -> P: < ja vill bara PÅPEKA (att) ja har inte PÅSTÅTT de >

P: ‘<I **just want to POINT out (that) I haven’t claimed this** >’

@ <mood : describing>

6. D: < näe: > /

D: ‘<no:> /’

@ <mood : understanding>

7. P: <1 men ditt minne

P: ‘<but your memory>‘

The sequence is:

P: Declarative sentence + reference to previous statement of the defendant + emphasis of accusatory word by prosecutor ->

D: Objection (using *reference to authority argumentation line*) to implicit possible consequences of statement ->

P: Negative confirmation expression + counter-objection ->

D: Negative confirmation word + *justification* of objection + modal particles (*argumentation line*: *common knowledge*) ->

P: Objection by partial repetition ->

D: Single negative confirmation word (closure) ->

P: Continuation with new topic

The answer on line 2 does not even include the otherwise typical initial confirmation; it goes directly to an objection and *justification* referring to an objective statement of facts. On line 3 the defendant is forced to clarify the purpose of his defensive behavior, which in itself is a meta-discourse act. It is followed by another meta-discourse act formulated as a repetition and self-repetition. The source of the verbal conflict arises solely from the defendants anticipated danger of the consequences of his answer and as such it is a result of his strong defensive behavior, aiming at minimization of guilt.

One may also expect that such sequences on anticipated danger and use of accounts referring to objective circumstances is more typical for experienced defendants than novices in the activity. In this particular case the defendant has been on trial multiple times and, in this particular session, there are more than ten issues of accusations.

In contrast to extract ST1: 102, where we have an example of cooperative presentation of evidence between the defense counsel and his own client, the defendant in ST1: 37, we can witness a more struggling behavior on the part of both the defendant and the prosecutor (i.e. during cross-examination).

Another example of cooperative behavior between defense counsel and his client is the following:

ST1: 46

1.	DC:	< haft me dej [44 den här kvällen]44 VISITERADES du av
		polisen sedan >
	DC:	'< **had with you [44 this night]44 were you SEARCHED by the police then**
		>'
		@ <mood : asking>
2.	D:	[44 näe]44
	D:	'[44 no]44'
3.->	D:	direkt innan ja så fort innan ja klev in i bilen så visiterades ja
	D:	**'directly before yes as soon as i enter the car so was searched I'**

4. DC: ja / < då hade du ingen [45 kniv]45 > / I då har ja inga fler frågor //

DC: ‘yes / **< then you didn’t have any [45 knife]45 > / then i don’t have any further questions //**’

@ <mood : asking>

5. D: [45 näe]45

D: ‘[45 no]45’

There is no *admission*-eliciting utterance by the examiner. The question on line 1 is *proleptic*; it addresses a circumstance, the answer to which can illustrate that it is improbable that the defendant had a weapon at the time of the crime. We are not surprised to find more examples of such sequences in the examination between defense counsel and defendant. The defendant’s answer is again constructed as a *proleptic* defense: there is no initial feedback word but the answer describes directly the exact circumstances topicalizing this part of the description which support his line of defense, that is, that he had no knife during the incident. Only at the end of the utterance does he repeat the exact expression of the examiner. The cooperative style is expressed by the extended non-elicited exactness of the answer as well as by the topic of the question as such and by the partial repetition of that answer on line 4 by the defense counsel.

In a Bulgarian trial, we have a sequence of unprovoked defense. The extract comes from the beginning of the actual examination and at the end of the more formal part of the hearing, which also corresponds to the Swedish subactivity, that I called

"establishment of the personality of the defendant". The defendant is considered to be psychologically ill (has been sent a few times to psychiatrists) and for this reason her own parents want to take over an apartment to which she is otherwise entitled. This is the background information we need to have in order to understand the peculiarity of the defendant's *volunteered utterance* on line 4.

BT1: 5

1.	J:	… ja kazji < sega > njakakvo zaboljavane < imash li > (xxx)
	J:	'… so tell < now > some illness < do you have > (xxx)'
		@ < falling intonation >
2. ->	D:	ami ne < znaja > njakoi smjatat che sam (xxx) takava no ne moga da vi kazja
	D:	well I don't < know > some think that I am (xxx) such but I ca not to you tell
		@ < continuing intonation>
3.	J:	ne znaja
	J:	'I don't know'
4. ->	D:	az ne ssam vinovna shtoto (xxxxxx)
	D:	**'I am not guilty becose (xxxxxx)'**
5.	J:	sega <1 kade si >1 kade se namirash <2 sega >2 <3 a >3 sega kade se <4 namirash >4 sega kade se <5 namirash >5
	J:	'now <1 where are you >1 where do you find yourself <2 now >2

< 3 but >3 now where do you <4 find yourself >4 now where do you <5 find yourself >5'

@ <1 mode: asking >

@ <2 falling intonation >

@ <3 rising intonation >

@ <4 falling intonation >

@ <5 mode: asking >

The first question is prefaced by a strong feedback eliciting expression *ja kazji sega* (with falling, i.e. not continuing, intonation, signaling, according to me, the decisiveness and the importance of what follows as well as the initiation of something new), which is typically used in contexts where *admissions* or confessions may be elicited. The dictation on line 3 is a single repetition of part of the defendant's utterance on line 2. It is after this single selective repetition/dictation that the defendant's *volunteered utterance* comes. This '*volunteer'* does not add new information but directly confronts an anticipated accusation and denies guilt, that is, both the responsibility for and the wrongness of her state/actions. The defendant has no reason to believe that her illness could be the subject of an accusation nor has she been informed as to what the trial is about. This explicitly defensive guilt-denying act is followed by a longer account, which was unfortunately not audible but is expected considering our analysis of *admission* sequences above. The premature character of this defense (or its suspicious correctness) is met and emphasized by the judge's disregard. His utterance on line 5 consists of four self-repetitions and self-reformulations of one special question, which initiates the beginning of a special type of

examination, namely, a psychiatric examination. It is only an implicit attempt to confront the defendant's accounts. This sequence is an extreme example of *prolepsis* or anticipation of danger resulting in almost aggressive defensive behavior, which is met by the rather drastic although implicit verbal actions of the judge. Notice also that he has not offered even one feedback-giving expression; in this way he could have given a more conversation- or mutuality- or joint-work-like direction to the examination. (In fact this examination develops in a very dramatic fashion as a battle in which all participants end with combat fatigue, the defendant fallen into tears, but this sequence is the first warning index of the interactive problems.)

All the above examples illustrate the point that *prolepsis* discursive moves, which are often involved in *admissions*, take more than one utterance, embed different types of sub-acts, characteristically realize minimizations, and involve all *argumentation lines*. In addition, we could observe that the mitigating and defensive behavior of the witnesses, the defendants and the plaintiffs depends on their trust relationship with the examiner. The examiners use more cooperative interrogation tactics when talking to their own clients although we have to keep in mind that prosecutors in the Swedish system are supposed to have an objective position.

3.3. Counter-attack

Counter-attacks may be initiated as legally specific forms of rejection of accusations and as more informal kinds of non-confirming answers. In the example below we have a routine-based reading of an issue of accusation and the professional actor's negative

response. The first utterance does not include any feedback-eliciting component but it still gets a response. This is due to the routinization of the sequence.

ST1: 1

1. P: andra åtalspunkten e misshandel och målsägaren där (e) < laka leander > / du skall väl sitta här bredvi för du kanske har / < nilsson > har den tjugoåttonde april < > på < andgatan > i < ankeborg > misshandlat < laka leander > genom att knuffa omkull honom / tilldela honom en spark mot kroppen / samt me en utfälld fällkniv utgöra göra ett utfall mot honom / varvid < leander > har fått en ytlig RISPA på hakspetsen /

P: the second charge is maltreatment and the plaintiff there (is) <laka leander> / you should sit here near me so you maybe has / <nilsson> on the twenty eighth of april <> on <andgatan> in <ankeborg> has he maltreated <laka leander> by pushing him down / giving him a kick in the body / as well as attacking him with an open pocketknife / from which <leander> has got a superficial SCRATCH on the end of his chin /'

@ <name>

2. -> DC: ja < nilsson > // bestrider de här /

DC: 'yes <nilsson> // denies this /'

The *denial* or rejection of responsibility line starts with a simple positive feedback word and a statement of the *denial* formulated as a positive polarity sentence, the *denial* here being expressed by a technical juridical word. The initial positive feedback can not be interpreted as an answer but rather as a signal for acceptance of the turn:

Positive feedback word + declarative sentence = *denial*

The ritualized contest of accusations performed by the defense counsel takes another form when pronounced by the defendant himself. Although the individual act of denying the accusations may not be followed or preceded by a *justification* in the same utterance, the latter may be presented in an earlier utterance, i.e. sequentially (see ST1: 5). There the answer denies possession of a weapon and objects to the formulations in the preceding accusations. Only after a more insistent reformulation of the question in a new utterance (on line 1 it is a yes-no question, almost a tag question, but on line 4 it is designed as a disjunctive question, i.e. it is stronger and more controlling than the previous one) does the defendant deny. The utterances on line 2 and 4 are reminiscent of the account-*admission* in ST1: 3 (see 2.1.1.) in the order of acts: first a mitigating *argumentation line* and then an *admission*/*denial* realized with a repetition of the formulations on lines 1 and 3. The features involved in this mixed implicit *admission* and *denial* are:

1. Question (1). Yes/no question (request for *admission*) ->

2. Answer (1). Statement of principle fact (*argumentation line*: *common knowledge*) without preface feedback expressions ->

3. Question (2). Disjunctive question (Request for *admission*) ->

4. Answer (2). *Denial* as a backchannel + *denial* by repetition.

Cautious *counter-attacks* are often part of the legal professionals' register. The defense counsel is asking the witness (plaintiff) whether the defendant and his friends have initiated any violent actions. A negative answer to that question is desirable for the defense party and dispreferred by the accusation party, which is expressed by the form of the negative answer: it is short and has a weak modality.

ST1: 32

1. DC: < var dom AKTIVA på något sätt >

DC: '< were they ACTIVE in a some way >'

@ <mood : asking>

2. -> Pl: nä **de tror ja inte**

Pl: 'no i don't think so '

3. DC: < **de tror du inte** nej >

DC: '< **you don't think so** no>'

@ <mood : asking>

4. Pl: näe /

Pl: 'no /'

5. DC: <1 dom försökte inte ta TAG / i någon av er / <2 eller nåt sånt där >2 >1

DC: '<they didn't try to get HOLD / of some of you / <or something like that >>'

@ <1 mood : asking >1

@ <2 quiet >2

6. Pl: näe //

Pl: ‘no //’

The examiner’s repetition on line 3 is not an expression of doubt but a need of clear restatement of the verbal evidence important for his case. Elaborating on this matter is part of the *counter-attack* move and is desirable because it will be imprinted in the judge’s memory and will influence the final conviction. Lack of reliable evidence due to *lack of memory* in the opposite party is obviously an important line of strategic mitigation for the defense counsel in this particular case because we can hear him repeating even other witnesses’ testimony of the same kind:

ST1: 78

1. W: men sen e ja vet inte

W: ‘but then eh I don’t know’

2. DC: < men sen så kan vet du inte VA som hände > /

DC: <**but then so can don’t you know WHAT happened**>/’

@ <mood : asking>

The reaction to dispreffered ascriptions of agency may result in contest of accusations which are not direct *counter-attacks* but implicit *rebuts* and *denials* of harmful intentions.

ST1: 366

1. DC: <1 [så] du rörde dej EMOT <2 nilsson >2 då >1

DC: ‘< **[so] you moved towards <nilsson> then** >’

@ <1 mood : asking >1

@ <2 name >2

2. Pl: DÖRREN rörde sej mot < nilsson > ja rörde mej inne i < > inne i bilen /

Pl: **THE DOOR moved towards < nilsson > i moved inside < > inside the car /’**

The sequence is:

Inferential declarative sentence ->

Direct correction by opposition = declarative sentence

It is exactly the partial repetition and opposition of reformulation, which make the utterance on line 2 a *denial* rather than a confirmation or *admission*. It is the *admission* that is rejected since the plaintiff refuses to admit any violent intentions or actions towards the defendant, which is the anticipated claim. The *argumentation line* of the plaintiff is lack of agency and *lack of intention*, signaled also by the emphasis on the actual agent, the door. In contrast to *admissions* with *justifications*, here we have no initial confirmation item, which is another feature of the combative style in examinations.

However, as a *denial*, this contribution is also cooperative. The plaintiff could simply answer with a plain 'no', which would be consistent with his line of argument. He knows however that such an answer will trigger further questions and, by presenting a more elaborated answer, he saves the efforts of the examiner and presents obstacle for the realization of his *argumentation line*, namely there is *no agency*. This mixed combative-cooperative style in implicit or explicit *counter-attacks* and *denials* is not specific only to Swedish.

Counter-attacks typically realize aggravations of other's guilt or own damages often involve direct answers to questions plus *extended volunteered initiations*.

ST1: 9

1.	P:	< hur MYCKE PENGAR blev ni blåsta på då > /
	P:	< out of how MUCH MONEY did you get cheated then > /
		@ <mood : asking>
2. ->	Pl:	< ja > e JA vart e blåst på HUNDRA KRONER (de) vet ja
	Pl:	'< I > eh I have been eh cheated out of HUNDRED CROWNS (this) I know'
		@ <alternatively : ja >
		@'<alternatively : yes>'
3.	P:	ha
	P:	'alright'

4. -> Pl: och e / ja prata me vittnet utanför e utanför / han påstår att det var TREHUNDRA kroner [15 han blitt]15 av me

Pl: **'and eh / i talk to the witness outside eh outside / he claims that it was THREE HUNDRED crowns [15 he lost]15'**

On line 1 the plaintiff gives a direct answer to the previous question by repeating mainly the verb choice (not reformulating it in any way, as we would expect him to do if he were to mitigate a guilt) and by prosodically emphasizing the sum of the damages as well as his identity as the 'patient' or the victim (i.e. the clear emphasis on the personal pronoun 'I'). He continues with further elaboration of the answer by adding and emphasizing even more information, which aggravates the results of the actions on trial. The confirmation on line 3 does not take the floor and does await the added aggravation. This kind of turn-giving feedback are unusual in cross-examinations but typical for examination of own witnesses and may indicate that this sequences were expected or 'rehearsed' is some way.

4. Summary

This article introduces a framework for the analysis of mitigation and actual defensive behavior in court, using examples from two different European legal systems and linguistic cultures. It describes how people do accounts for what they think is accountable in the court setting within this framework. The two basic defensive processes of

minimization and aggravation of guilt/blame/responsibility/punishment are realized by a number of *defense moves* following/formulating a certain *argumentation line* which contain variety of communicative acts such as *admissions*, *denials*, *no-memory answers*, *volunteered utterances*, etc. I focused on realizations in a sequence but also elaborated on the organization of acts on the utterance level.

The observed linguistic means for mitigation are: Modal changes; Negative-positive polarity formulations; Modal expressions such as the Swedish particles *ju*, *nog*, *väl*, Bulgarian *nali*, (English tag 'right', 'certainly', 'you know') etc.; Disclaimer formulaic constructs (Overstreet and Yule, 2001) such as Disclaimer + 'or something/anything'; Expressions of unclear quantity; Impersonal constructions; Narratives; Tone of voice; (Eye-contact, posture, gestures, facial expression); Pauses.

Concessions, which in trials are usually realized by admissions, involve mitigation strategies used both by the examiner and the witness and are typically carried out by: Modal changes; Lower tone of voice; Laconicity; Ellipsis; Pauses.

Prolepsis is realized by: Mitigation in the utterance; *Volunteers*; Evasive answers; Confirmation/*admission* by implication.

Counter-attacks consist of: Indirect *denials*; Corrections presented with topicalizations and/or emphatics; Corrections as disclaimers; *Volunteers*; Five-step doubt resolution sequences; Positive feedback and declarative sentences when presented by the lawyers.

Answers that do not include initial feedback items but directly start a sentence or a clause tend to be: Corrections; Mitigated *admissions*; Objections (or *rebuts*); *Credibility* defenses. The last two are typically realized as what I called *volunteers*.

The *argumentation line common knowledge* is presented often with use of modal particles and elliptic sentences. *Shared responsibility* is referred to in narratives and before *admissions*. *Reference to authority* as *argumentation line* is usually used as final argument and as support for expressions of *certainty*. It is often combined with *common knowledge* answers and it is typically self-initiated. Mitigation based on *lack of agency* uses topicalization, emphatics, and hypothetical utterances. Arguments of *lack of intentions* are also presented in suggestive manner, they are typically followed by *justifications* but they are preceded by *admissions*. They appear also in *volunteered utterances*. Witnesses work on their *credibility* by using the above mentioned mitigation devices. Expressions of lower degree of *certainty* are usually followed by display of unresolved doubt, which triggers stronger *credibility* assertions such as *justifications* of *certainty*/*uncertainty* in the same turn or in *volunteers*. *No memory* answers are always followed by more or less extended accounts using common sense defenses, modal particles, narratives and *volunteers*. Lack-of-memory *argumentation lines* are either part of the examination ritual where they appear as short answers with initial positive feedback and declarative statements of *argumentation lines* or when given by the witnesses they are typically presented as *volunteered self-initiations*.

Being typical joint actions, *admissions* tend to involve at least four utterances, but they may be shorter if presented by the legal representative of the defendant or during direct examinations. The general model describing the individual act of making an *admission* in court is the following:

confirmation item + account + hesitation items + *admission*

There are variations on the theme but this is the basic milestone of all acts of *admission* independently of the previous turn, which could be a question or a request formulated as a declarative sentence, Y/N question or a WH question. The hesitation sound might appear before the account. The accounts are either *justifications* or *excuses* and may have the form of a narrative or a statement of opinion or own reasoning; they realize the different *argumentation lines* on which the examined are building their argument. This basic format has one qualitatively different version, namely, the one in which the examined is admitting without reference to *argumentation lines* or when the account follows the initial *admission*.

***admission* + account (justification> excuse)**

or

implicit mitigated *admission* (without initial feedback items)

This change in the format does not depend as much on the immediate context as on the juridical relationship between the interactants because such sequences typically occur when the examiner is examining the person represented by him/her party (i.e. direct examination) or when the examiner is responding to the judge instead of the examinee. Despite the fact that the prosecutor in the Swedish system is supposed to have an objective and not a party-oriented relation to both actors in the trial, we could see that the examinees oriented themselves towards the prosecutor or the defense counsel in different ways. The defendant has more energetic combative mitigating and defense behavior towards the prosecutor and more cooperative behavior towards his defense counsel, which is also supported by the discursive strategies of the counsels themselves. The plaintiff and the witnesses on his side use more *counter-attacks* and *prolepsis* in their

answers to the defense counsel and are more prone to *admissions* and agreement when interrogated by the prosecutor.

The major difference between *admissions* and *no-memory/knowledge answers* is that, in the latter, the *argumentation lines,* consisting more often of *excuses* than *justifications*, come after the direct answering part of the act and may be offered without the initial confirmatory items characteristic of the *admissions*. Thus the typical utterance format is:

***lack-of-knowledge/memory answer* + account (*excuse* > *justification*)**

In such contexts we find preventive anticipatory work by the examinee. It is especially curious that even witnesses, that is, actors, who should have less fear of challenges and accusations use *prolepsis* and precautions, defending their *credibility* and/or competence. *Lack-of-knowledge* acts are often produced in a lower tone of voice, which is a device for mitigation.

Denials follow the format of the *no-memory answers* but are more often realized without *justifications* or *excuses.* The examinees avoid explicit *denials* especially after displays of doubt and prefer to formulate their utterances in a positive manner. However, they are more prone to verbal denotations of *denials* when examined by the legal representative of their party, thus showing more trust in the examiner. Certain topics, such as intake of alcohol, are always sensitive for the Swedish examinees and thus every question addressing this matter triggers mitigations, which are *proleptic* in character. In contrast to *admissions* with *justifications*, here we have no initial confirmation item, which is another feature of the combative style in examinations. Thus *denials* can also take the form of direct corrections:

inference -> Direct corrective construction without other feedback units

The mixed combative-cooperative style in *denials* and *no memory* answers can be expressed in different ways. For instance, the verbal behavior could be formulated as cooperative but the non-verbal behavior could uncover a combative attitude and vice versa.

Accounts and the *counter-attacks* (more seldom) can be realized as *volunteers*, i.e. voluntarily initiated utterances the sole purpose of which is defense. They tend to appear after display-of-doubt repetitions, before a reconfirmation sequence or after it. The tendency to *volunteer* information after sequences of inability to give informative answers is so strong that the witnesses are even ready to improvise the production of completely new pieces of evidence (see also Loftus, 1997), which disturb the established question-answer turn-order and may even discredit their own testimonies. This behavior may indicate that their desire to give pro-party evidence is subordinated to their desire to appear credible. In order to appear credible they prefer to interlace certainty with uncertainty rather than provide only certain testimonies. That goes along with Norrick's observation that "when tellers register uncertainty in personal stories, it tends to authenticate the story rather than to raise doubts about it" (2005: 1819). It was also observed that the more trustful the relationship between the interactants the more likely it is to get e.g. less mitigated *admissions* i.e. the relationship between the interactants influences the degree of mitigation. This means once again that, despite the objective judicial role of the examiner and even no matter how polite the speech of the examiner is the verbal behavior of the witnesses exhibits anticipation of danger.

5. Conclusions

The main purpose of the framework for analysis of mitigation in courts presented here is to systematically relate action, argumentation, and verbal behavior[5] in the explanation of how mitigation works in this setting by the use of a bottom-up approach i.e. starting from the data in order to build a more abstract theoretical framework. In that way we assure the empirical verification of the observations and categorizations.

The goals and plans of the speakers influence their argumentation strategies and their linguistic behavior. The opposite is also true, the linguistic behavior influences the "pragmatics of discourse planning" (Beaugrande, 1980: 15), i.e. mitigation can be understood not "only in contrast to boosting"[6] (Holmes, 1984) but mainly in relation to activity and the interactants' goals, argumentation, and emotions.

Courts offer a situation in which mitigation is used not only for protection of face but for protection of life. In certain cultures face may be even more important than life. In our data, the mitigation of face and guilt or punishment are intertwined. Giving a good impression of self is an important aspect of the defense thus mitigation related to face and mitigation related to legal responsibility are often expressed simultaneously. In trials we may see what Fraser found 'difficult to construct" (1980: 344) i.e. situation in which people mitigate without necessarily also being polite or without having politeness play any role at all. This, of course, strengthens Fraser's observation that mitigation and politeness are separate pragmatic phenomena. It also supports the pragmatic view that

[5] For the relation between verbal behavior and emotional coping, see Martinovski and Marsella (2003, 2005).

[6] According to Holmes' e.g. 'certainly' is an expression of boosting but as we saw in courts 'certainly' is often used in mitigation.

human linguistic behavior is strongly defined by the activity in which people are involved. In that sense, the study of mitigation provides a bridge between the study of linguistics occurrences and that of social action.

The court setting also turns all utterances used during trial to testimonies that can be used in further allegations. Thus every utterance in trial has a stronger performative force than it would have in daily circumstances. People are not just signaling intentions to each other, they are doing things with each other and with themselves. The court is a setting for settlement of disagreement, one can not avoid the disagreement, this is the very nature of the activity. Thus mitigation can not be defined simply as a strategy for avoidance of disagreement (Brown and Levinson, 1978) but rather as a way of coping with disagreement (and other forms of stress such as guilt, penalty, accusation), facing it, anticipating it and/or accepting it (Martinovski and Marsella, 2003; Martinovski et al. 2005). It does not modify just the illocutionary force (Holmes, 1980) but also the discourse plans, the mental models and the social context, and in legal contexts even personal fates.

Future analysis of mitigation may relate it's realizations to what Mey (2001) and Capone (2004) called pragmemes i.e. mitigation expressions can be seen as situated socially recognizable acts, which can be used to study how interaction influences and causes grammatical and semantic change. They cause and result from transformations in the micro and macro linguistic and social context.

We studied data from two different legal systems, languages, and cultures and found common formulations of mitigation. However, the universality of mitigation and mitigation forms needs further investigation.

The analysis in this paper is mainly qualitative. Quantitative study of the found co-occurrences and regularities will be another direction of future work.

Finally, the empirical study of mitigation may contribute to the understanding of the integration of strategic, pragmatic, emotional, and Theory of Mind processes.

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